United Nations S/2006/147

Security Council

Distr.: General
8 March 2006

Original: English

Letter dated 8 March 2006 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached fifth report from Turkey submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Ellen Margrethe **Løj**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

06-26766 (E) 010506

Annex

Note verbale dated 27 February 2006 from the Permanent Mission of Turkey to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

The Permanent Mission of Turkey to the United Nations presents its compliments to the Counter-Terrorism Committee established pursuant to United Nations Security Council resolution 1373 (2001) and, with reference to the letter of the Chairman of the Committee dated 2 December 2005, as well as the note of the Mission dated 3 January 2006, has the honour to submit herewith the fifth report of Turkey, which provides information on issues raised in the letter of the Chairman of the Committee (see enclosure).

Fifth report of the Republic of Turkey to the Counter-Terrorism Committee in response to the letter dated 2 December 2005 from the Chairman of the Counter-Terrorism Committee

Note: The numbers of the following paragraphs and subparagraphs correspond to those of the relevant paragraphs of the letter dated 2 December 2005 from the Chairman of the Counter-Terrorism Committee

1. Implementation measures

1.1 The Working Group on Terrorist Financing (WGOTF), composed of experts from the Ministries of Justice, Interior, Finance, Foreign Affairs and the Undersecretariat of Treasury, completed its work under the chairmanship of the Finance Ministry's Financial Crime Investigation Board (Turkish Financial Intelligence Unit-MASAK) and sent "The Draft Law on Amending Law No: 3713 on Fight against Terrorism" to the Prime Minister's Office on 19 August 2005.

The Prime Minister's Office has informed MASAK that the Draft Law prepared by the WGOTF has been forwarded to the Ministry of Justice with a view to harmonizing and combining it with the preparations conducted by the Ministry of Justice concerning the Draft Law amending the Law No: 3713 on Fight against Terrorism.

The ad-hoc Commission established at the Ministry of Justice with the mandate of preparing the amendments on the Law No: 3713 on Fight against Terrorism (LFAT) has finalized its task; however draft has not been finalized yet. It is presently under review at other levels.

On the other hand, "The Law on Organisation, Function and Authority of the Financial Crimes Investigation Board and Prevention of Laundering Proceeds of Crime", which was submitted to the Turkish Grand National Assembly on 9 June 2005, defines terrorist financing as an offence separate from terror crimes.

The text of the related provision is as follows, *"Article 7/A, following the Article 7, has been added to the Law No: 3713 on Fight against Terrorism of April 12, 1991.*

Terrorist Financing Offence

Article 7/A- Whoever, directly or indirectly, provides or collects funds with the intention that they should be used or in the knowledge that they are to be used, in full or in part, to carry out terrorist acts shall be sentenced to imprisonment from 1 year up to 5 years and to a payment of fine from 150 days up to 1500 days, even if their offence constitutes a separate crime. Even if the fund is actually not used to carry out terrorist acts, the offender shall be sentenced by the same penalties.

If a person responsible for the management or control, de facto and de jure, of a legal entity has committed in that capacity an offence stated above, for the persons committing the acts shall be sentenced by the same penalties and for legal persons security measures shall be taken.

The fund stated at the paragraph 1 of this Article, shall mean money or all sorts of property, rights, credits, proceeds and benefits and all economic proceeds and benefits derived from conversion of them from one form to another."

The Draft Law is being debated at the Parliamentary Sub-Committees.

1.2 Since the Financial Crimes Investigation Board (MASAK) is an administrative body, it does not have any law enforcement and prosecution power. Turkish domestic legislation does not allow administrative units to seize directly any property of proceeds.

General principles and rules regarding the decision on seizure are defined in Article 127 of the Code on Criminal Procedure No: 5271. As it will be seen in the text of the said Article, seizure authority belongs to the judge; however in urgent cases the public prosecutor and law enforcement authorities are given competency to carry out seizure. In this case, a written order should be submitted within 24 hours to the competent judge. In addition to Article 127, Article 128 and subsequent Articles stipulate seizure procedure.

Article 127 of the Code on Criminal Procedure reads, *"Law enforcement officials may carry out the seizure upon the order of the judge or in cases where delay would be detrimental; the seizure can be made with a written order of the public prosecutor.*

(1) The detailed identity of the law enforcement officials shall be included in the seizure records.

(2) This written order given by the public prosecutor shall be submitted to the judge for approval within 24 hours. The judge shall give his decision within 48 hours of the seizure; otherwise the legal validity of that seizure shall automatically end.

(3) The person who had the seized items in his possession may ask a judge to give an order on this issue at any time.

(4) The seizure shall be notified to the victim without delay.

(5) Seizure procedures on military premises shall be conducted by the military authorities at the request and with the participation of the judge or public prosecutor."

Article 128 of the Code on Criminal Procedure reads, *"(1) In cases where there is a strong suspicion that the offence subjected to the prosecution or investigation has been committed, the following assets proceeded from the offence belonging to the suspect or accused may be seized:*

a) Immovable

b) Land, sea or air vehicles

c) Every kind of accounts in banks or financial institutions

d) Every kind of rights and credits at legal or real persons

e) Valuable papers

f) Partnership interests

g) Content of safe deposit box

h) Other asset values

Even if these immovable, rights, credits and other assets are under the possession of a person other than suspect or accused, the seizure procedure still may be carried out.

(2) Provisions of sub-paragraph 1 are applicable for the following offences:

a) Offences defined in the Turkish Criminal Code;

1. Genocide and offences against humanity (Articles 76, 77 and 78),

2. Smuggling of migrants and human trafficking (Articles 79 and 80),

3. Burglary (Articles 141 and 142),

4. Raid (Articles 148 and 149),

5. Abuse of confidence (Article 155),

6. Fraud (Articles 157 and 158),

7. Fraudulent bankruptcy (Article 161),

8. Producing and smuggling of drugs and psychotropic substances (Article 188),

9. Money counterfeiting (Article 97),

10. Establishing organisations for the purpose of committing crimes (Article 220),

11. Mischief in tender (Article 235),

12. Involvement in fraudulent act during fulfilment of obligations (Article 236),

13. Embezzlement (Article 247),

14. Malversation (Article 250),

15. Bribery (Article 252),

16. Offences against national security (Articles 302, 303, 304, 305, 306, 307 and 308),

17. Armed organised criminal groups (Article 314) or supply of arms to these criminal groups (Article 315)

18. Offences against State secrets and spying (Articles 328, 329, 330, 331, 333, 334, 335,336 and 337)

b) Arms smuggling defined in Law No. 6136 on Fire Arms, Knives and Other Equipment (Article 12)

c) Embezzlement defined in Article 22, sub-paragraphs 3 and 4 of Banking Act

d) Offences requiring imprisonment penalty and defined in Law on Anti-Smuggling

e) Offences defined in Articles 68 and 74 of Law on the Preservation of Cultural and Natural Property

(3) Seizure decision for immovable property is carried out by noting this decision to the Land Registry.

(4) Seizure decision for land, sea and air vehicles is carried out by noting this decision to the concerned registry.

(5) Seizure decision on every kind of accounts in banks or financial institutions is carried out by informing promptly concerned bank or financial institution through technical

means of communication. This decision is also notified to the concerned bank or financial institution. Transactions on accounts for the purpose of rendering the seizure decision ineffective are invalid after the seizure decision was taken.

(6) Seizure decision on partnership interests is carried out by informing promptly concerned company management and commercial registry where the concerned company is registered through technical means of communication. This decision is also notified to the concerned company management and commercial registry directorate where the concerned company is registered.

(7) Seizure decision on rights and credits is carried out by informing promptly concerned legal or real person technical means of communication. This decision is also notified to the concerned legal or real person.

(8) In case of breaching seizure decision requirements, Article 289 of the Turkish Criminal Code entitled "Abuse of Preservation Duty" is applied.

(9) Seizure decision in accordance with this Article may only be given by judge."

1.3 Terrorist financing offence is not defined separately from terrorism offences in Law No: 3713 on Fight against Terrorism. However, aiding and abetting of terrorist organisations is punished under Article 7 of the said Law.

Apart from Law No: 3713 on Fight against Terrorism, Article 220/7 of the Turkish Criminal Code No: 5237 stipulates that person who aids and abets the organisation knowingly and intentionally although he does not belong to the hierarchical structure of the organisation shall be punished as a member of the organisation. Article 314/3 regarding the armed criminal organisations makes reference to the Article 220 and states that Article 220 is applicable for the armed criminal organisations.

Text of the related provisions is as follows:

Law No: 3713 on Fight against Terrorism;

Article 7 reads, "*Without prejudice to Articles 3 and 4 of the present Law and Articles 168, 169, 171, 313, 314 and 315 of Turkish Criminal Code, the persons who establish the organisations which are covered by Article 1 of the present Law under any name or arranges the activities or manages the organisations shall be punished to five to ten years heavy imprisonment and heavy fine from two hundred to five hundred Turkish Liras, those who participate to these organisations shall be sentenced to three to five years of heavy imprisonment and heavy fine from a hundred to three hundred million Turkish Liras.*

Those who aid to members of the organisation mentioned above or propagandize to incite violence and other terrorist methods shall also be sentenced to one to five years of imprisonment and heavy fine from five hundred million to one billion Turkish Liras even if their acts constitute another offence.

If the aid takes place in the buildings, premises, offices or extensions of associations, foundations, political parties, labour and professional unions or in educational institutions or their dormitories and extensions, then the sentences mentioned in the second paragraph shall be doubled.

In addition, activities of associations, foundations, trade unions and similar institutions found to have supported terrorism shall be banned, and the institutions may be closed down by a court decision. Assets of these institutions shall be confiscated.

Where the propaganda activities referred to in the second paragraph hereof are carried out through the periodicals indicated in the Article 3 of the Law No: 5680 on Mass Media, the proprietors of such periodicals shall also be sentenced to a fine corresponding to 90 per cent of the average sales revenues of the previous month if the periodical has a frequency of less than a month provided that these fines are not inferior to 100 million Turkish Liras. The editors of the periodicals shall be sentenced to half of the fine which shall be imposed on the proprietors and 6 months to 2 years imprisonment".

Turkish Criminal Code No: 5237;

Establishing organisations for the purpose of committing crimes

Article 220 of the Turkish Criminal Code reads, *"(1) Those who establish or direct organisations for the purpose of committing crimes shall be sentenced to imprisonment of 2 to 6 years if the structure of the organisation, number of members, equipment and supplies are sufficient to commit the crimes aimed.*

(2) Those who become members of the organisations established to commit crimes shall be sentenced to imprisonment of 1 to 3 years.

(3) If the organisation is armed, the sentence stated above will be increased from one fourth to a half.

(4) If a crime is committed within the framework of the organisation's activities, these crimes will also be punished.

(5) The heads of the organisations shall also be sentenced as the perpetrators of all crimes committed within the framework of the activities of the organisation.

(6) The person who commits a crime on behalf of the organisation although he is not a member of the organisation shall also be punished for being a member of the organisation.

(7) A person who aids and abets the organisation knowingly and intentionally although he does not belong to the hierarchical structure of the organisation shall be punished as a member of the organisation.

(8) A person who makes propaganda for the organisation or its objectives shall be punished to imprisonment of one to three years of imprisonment. If the said crime is committed through media and press the sentence will be increased by half."

Armed organised criminal groups

Article 314 of the Turkish Criminal Code reads, *"(1) Any person who forms organised criminal groups to commit the offences listed in fourth and fifth Sections of this Chapter, and commands these groups, is punished with imprisonment from 10 to 15 years.*

(2) Those who become member of the organised criminal group defined in the first paragraph are sentenced to imprisonment from 5 to 10 years.

(3), Other provisions relating to the offence committed by forming organised criminal groups are applied exactly the same for this offence."

1.4. In the Article 15 of the Law No: 4208 on Prevention of Money Laundering, it is stated that necessary regulations for the implementation of the Law No: 4208 on the issues of submitting information, customer identification and suspicious transactions will be set through regulations to be issued by the Council of Ministers within six months following the date of promulgation of the said Law.

According to the Regulation issued in accordance with the provision stated above, General Communiqué No: 3 on reporting suspicious transaction of terrorist financing and terrorist activity has been released.

According to the Law No: 4208, a person who does not comply with the Decrees of the Council of Ministers and the Communiqués shall be sentenced to imprisonment from 6 months up to 1 year and to heavy fine from 12 million Turkish Liras to 120 million Turkish Liras.

In view of that, it should be pointed out that Communiqué No: 3 on reporting suspicious transaction of terrorist financing and terrorist activity is a legally binding instrument for all liable parties to be complied with.

1.5. In the Article 2 of the Law on Organisation, Function and Authority of the Financial Crimes Investigation Agency and Prevention of Laundering Proceeds of Crime, which was submitted to the Turkish Grand National Assembly on 9 June 2005, liable parties are designated as follows;

"Individuals and institutions carrying out activities in the range of banking, insurance, private pension, capital market, money lending and other financial services, postal services, transportation, lottery hall and betting sector; Individuals and institutions carrying on the trade of foreign exchange, real estate, precious stone and metal, jewellery, vehicle, construction equipment, historical arts, art works and antiques or mediating to these activities, notaries, sports clubs and other individuals and institutions carrying out activities in the range designated by the Council of Ministers."

Lawyers and accountants will be dealt with in the secondary legislation after the Law has entered into force.

It should also be emphasized that casino activities are currently prohibited in Turkey.

1.6. In the Law No: 4208; duties and powers of the Finance Ministry's Financial Crime Investigation Board (MASAK) Presidency are stipulated as follows;

- to exchange studies and information with national and international institutions and establishments, to make research and investigations related to dirty money,

- to carry out preliminary investigations in order to determine whether money laundering offences have been committed or not, and if serious circumstantial evidences exist about money laundering, in cooperation with the law enforcement authorities, to request the implementation of the

procedures in accordance with the Law No: 4208 and provisions on search and seizure of the Turkish Law on Criminal Procedure No: 5271,

- to collect and evaluate all statistical and other kinds of information concerning money laundering offences and, to notify the related parties and competent authorities within the framework of bilateral and multilateral international agreements to which Turkey is a party.

MASAK which became a member of EGMONT Group in 1998 and as the financial intelligence unit of Turkey, exchanges information with other financial intelligence units upon request or spontaneously by means of Egmont Secure Web.

On the other hand, it is laid down in the Draft Law that President of MASAK is authorized to sign memorandum of understanding with its foreign counterparts. This ensures that exchange of information is conducted in a more efficient and effective way.

1.7 Activities which banks can carry out are defined in the Article 4 of the Banking Law Act No: 5411 of 19 October 2005. According to the said Article, banks can carry out transactions such as cash and non-cash payments and fund transfers as well as every kind of payment and receipt including cheque accounts and correspondent banking.

In the Article 3 of the Banking Law, it is stated that the definition of bank includes deposit, participation, development and investment banks. All the institutions defined as banks according to the Law are authorised to carry out money transfers and remittances.

In page 8 of Turkey's 4th report submitted to the Counter-Terrorism Committee and published on 26 October 2004 by the United Nations Security Council, it is necessary to make the following amendments. In this respect the following paragraphs in the 4th report which reads as:

"1.6 According to the Turkish Banks Act, Nr: 4389, only banks and special financial establishments are authorized to carry out banking activities, including money remittance or transfers. Informal banking networks are not allowed to operate in Turkey. A duly issued license is required for all kinds of banking activities.

Currently, 49 banks and 5 special financial establishments operate in Turkey. Only these institutions and the Turkish PTT can transfer money in Turkey according to law. It is not possible for any entity to engage in banking business without a license. ***According to the Article 3 and 4 of the Decision No: 32 on the Protection of the Value of the Turkish Currency, banks and special financial establishments are obliged to report to the Turkish Central Bank about money transfers to third countries that exceed 50.000 US Dollars or equivalent Turkish Lira (TL) within 30 days.***

On the other hand, since large amounts of cash can be carried from one country to another by individuals that are colloquially called "couriers" as an illegal method of money transferring, necessary measures have been taken at the border gates. ***According to Article 3 of the Regulation No: 32 on the Protection of the Value of Turkish Currency, the upper limit for passengers who take money abroad in their possession is 5000.- US Dollars or its equivalent in TL.*** The statistics related to the undeclared money caught in possession of such "couriers" are given below."

are to be written as follows ***(the changes are highlighted)***:

"1.6 According to the Turkish Banks Act, No: 4389, only banks and special financial establishments are authorized to carry out banking activities, including money remittance or transfers. Informal banking networks are not allowed to operate in Turkey. A duly issued license is required for all kinds of banking activities.

Currently, 49 banks and 5 special financial establishments operate in Turkey. Only these institutions and the Turkish PTT can transfer money in Turkey according to law. It is not possible for any entity to engage in banking business without a license. **According to the Article 3/c and 4/e of the Decree No. 32 on the Protection of the Value of the Turkish Currency and the relevant directives of the Turkish Central Bank, banks and special finance institutions (since November 2005 participation banks) are obliged to report to the Turkish Central Bank about money transfers abroad, excluding payments for exports, imports, invisible transactions and capital movements, that exceed 50,000 US Dollars or equivalent Turkish Lira (TL) or equivalent in another foreign currency within 30 days.**

On the other hand, since large amounts of cash can be carried from one country to another by individuals that are colloquially called "couriers" as an illegal method of money transferring, necessary measures have been taken at the border gates. **According to Article 3 and 4 of the Decree No. 32 on the Protection of the Value of the Turkish Currency, travellers may take Turkish currency or foreign currency banknotes with them abroad up to 5.000,- US Dollars or its equivalent.** The statistics related to the undeclared money caught in possession of such "couriers" are given below."

1.8.1 and 1.8.2 Article 38 of the Associations Law No: 5253 which was adopted on 23 November 2004 and entered into force after being published at the Official Gazette No: 25469 has made some amendments in the Law No: 2860 on Collection of Charitable Donations.

In line with this amendment, activities related to collecting charitable donations have been taken out of the sphere of duties of the law enforcement authorities and transferred to the sphere of duties of the Directorate of Associations at the Ministry of Interior.

According to the Article 7 of the Law No: 2860, real persons, associations, institutions, foundations, sport clubs, newspapers and magazines that wish to raise charitable donations in line with the public interest should take permission from the Provincial Administrator. The provincial public office which is authorized to grant permission carries out an investigation concerning the importance and the objective of the activity as well as its compatibility with the public interest and prepares a file for each activity.

According to the Article 16 of the said Law, inspectors entrusted by the provincial administrator audit final accounts of the collected charitable donations and prepare a report concerning the gross revenue, expenditures spent for the activity, net income after the activity, including an evaluation whether the obtained income would be sufficient to meet the objective. Nonetheless, it is under the supervision and audit of the public authority whether the income is used to realize the declared objective or not.

Furthermore, associations established in line with the provisions of the Associations Law No: 5253 are obliged to submit an annual report on their activities, as well as a settlement of accounts

by preparing a declaration by the end of April to the Provincial Administrator. In case of need, associations can be supervised by the Minister of Interior or Provincial Administrator.

According to the Article 7 of the Law No: 2860 on Collection of Charitable Donations, the organisations that obtained authorisation from the Ministry of Interior or other local authorities shall be audited and monitored to ensure that the funds collected are not diverted to terrorist or illegal activities. Foundations are inspected by the inspectors of the Directorate General for Foundations to ensure that their incomes, including donations and contributions, are used in accordance with the aims declared in their status.

1.8.3 According to the Article 3 of Law No: 2860 on the Collection of Charitable Donations, real persons, associations, institutions, foundations, sport clubs, newspapers and periodicals are enumerated as the organisations which can collect charitable donations in accordance with the declared aim.

The inspection and investigation of the said charitable organisations is carried out by the Inspection Board of Finance depending on power and authorities especially derived from the Article 20 of Decree Law No: 178 on Organisation and Duties of the Ministry of Finance, and the Article 135 of Tax Procedural Law No: 213.

Tax audit power of finance inspectors (Article 135 of Tax Procedural Law No: 213) during the financial inspection of charitable organisations is crucial and inevitable since the firms and economic enterprises linked to the charitable organisations are taxpayers according to the Corporate Income Law No: 5422 and Income Tax Law No: 193.

During the financial inspection of the collected funds to search whether they are used in accordance with the declared aim by the charitable organisations, the Inspection Board of Finance uses its power and duties derived from different laws, decrees and regulations. The Board is deeply involved in auditing the financial records of the organisation.

The financial inspection of the charitable organisations by the Inspection Board of Finance had been intensive especially during the 1997-2002 period, and has been decreased since then. The Inspection Board of Finance inspects mostly the nation-wide charitable organisations or charitable organisations which have international relations. On the other hand local charitable organisations are mostly inspected by the local authorities (especially by Governor's Office).

The financial inspection of the charitable organisations by the Inspection Board of Finance depends on denunciation, complaint, other public departments' demand (Minister of Finance, other ministries, public prosecutors etc.) or Board's inspection programs. Thus, the intensity of the financial inspection of the charitable organisations by the Inspection Board of Finance depends on above mentioned conditions.

1.9. Articles 12,13,14 and 15 of the Law No: 6136 Fire Arms, Knives and Other Equipment stipulate the penalties to be imposed on the persons who bring to the country, carry or possess fire arms or knives contrary to the legislation.

According to the Article 13, persons who buy, carry or possess fire arms or knives in violation of the provisions of the Law shall be sentenced to penalty of imprisonment from 1 to 3 years.

Also, punishments are defined in the said Law depending on the number of the arms and whether arm is automatic or not.

Firearm licences are valid for only 5 years.

1.10. It is not possible by procedure to provide the list of the countries with which the National Intelligence Organisation (MIT Undersecretariat) has cooperation in the context of early warning.

As a matter of fact, this cooperation is conducted within the framework of procedures between services and the MIT Undersecretariat is not authorised to reveal this information unilaterally.

On the other hand, the MIT Undersecretariat shares "early warning" information it obtains with the national authorities, which have direct connection with INTERPOL.

1.11 The Draft Law Amending the Passport Law has been submitted to the Turkish Grand National Assembly and is still under debate at the relevant Parliamentary Committees.

With the Draft Law it is planned,

- to issue new types of machine readable passports in conformity with the standards No: 9303 of the International Civil Aviation Organisation upon the expiration of the existing passports,

- to cancel the relevant provisions of the Passport Law which regulate registering the accompanying children in the same passport and issuing joint passports and to issue these persons individual passports,

- to extend the validity of ordinary passports from 5 to 10 years.

In this vein, preparations to issue new passports compatible with the specifications defined in the ICAO document No 9303 and its annexes have been finalized.

Purchase of new Passport Issuing System has been put out to tender on 11 July 2005. Nine companies have participated to the tender; however the tender was cancelled on 20 September 2005 since the proposals were technically not sufficient. Nonetheless, it is planned to call for tenders in 2006 to buy new Passport Issuing Systems.

In conformity with the standards described in the ICAO document No: 9303 and EU norms, new passports,

- will have smaller size,
- will be readable by the optical machines, thus the border crossing procedures are to be completed in a short time,
- will have secure chips, bio-metric data and other secure layers,
- picture and identity of the passport holder will be on the same page,
- the picture of the holder will be a digital picture printed on a page of a passport.

1.12 As it was also explained in the paragraph 1.11, Turkey has been working on new passports to be in conformity with the ICAO standards. New passports will have security layers advised by ICAO and the EU. The most important component will be the chip containing bio-metric data.

Turkey plans to incorporate protective features against counterfeiting and alterations in the Turkish Republic (TR) identification cards. While some of these features are intended to be visible, others require special equipments.

It is envisaged to integrate these security features in the personalised TR identification cards in three layers.

Card Material Specifications:

Layer 1: It will integrate at least three security features in the first layer. For instance, it is intended to prepare the first layer in a way that will make any attempt of altering the information be easily identifiable and to incorporate an Optical Variable Device (OVD) on the front side of the identification card.

Layer 2: It will have an invisible/transparent second layer on the card which becomes identifiable only when special equipment such as a UV device or other conventional methods are utilised.

Layer 3: The third layer will be hidden and personalised to the card holder. The issued TR identification cards will be approved by using methods or equipments to be supplied by the contractor. It is intended to incorporate at least one security feature in this layer.

Security Attributes:

It will not be possible to erase or alter the assembled information without tampering with the physical properties of the identification card. It will be ensured that any such counterfeiting attempts be identifiable visually or by contact.

Moreover, TR identification cards will have a smart card system compatible with file and security commands described in ISO 7816-4 standard and will have digital signature support.

The smart card operating system will support applications such as digital signature and bio-metric applications.

1.13 In the Article 22 of the Passport Law No: 5682, it was stated which authorities can bring restrictions to exit from the country.

According to the said Article, exit ban from the country can be imposed on the persons upon the decision of a court, on the persons whose tax debt is informed to the relevant authorities issuing passports and on the persons that the Ministry of Interior has an objection as for the general security.

Ban on entry is a different practice than the ban on exit. Actually, according to the Article 23 of the Constitution, Turkish citizens cannot be prohibited to enter the country.

Ban on entry into Turkey is regulated by the Article 8 of the Passport Law No: 5682. Data and list of the persons whose exit from and entry into the country is banned are kept on separate databases through POLNET, which have on-line connection with the border gates.

On the other hand, records concerning the persons searched at the international level are sent by the INTERPOL and INTERPOL member countries to the Interpol-Europol-Sirene Department of the Turkish National Police.

Regarding the persons who should be denied entry or exit, the Interpol-Europol-Sirene Department of the Turkish National Police is charged with the following mandates:

a) Placing the code (H) for persons whose whereabouts are located outside Turkey or who are thought to flee from Turkey while being searched on national level and for persons who are subjects of diffusion messages and red notices issued by relevant branches of Turkish National Central Bureau (NCB) through directions of judicial authorities or removing the (H) code of persons whose searches are cancelled.

b) Checking the diffusion messages and red notices issued for persons who are searched for extradition by the decision of relevant judicial authorities of member countries,

c) Forwarding the requests of the countries which are parties to a bilateral or multilateral extradition convention with Turkey, to Ministry of Justice in order to determine whether the request is appropriate for extradition or to decide about the action to be taken, placing (H) code for the persons who are searched to be arrested and removing the code in case of cancellation

d) Placing or cancelling (M) code for persons who are subjects of the requests of the countries which are parties to a bilateral or multilateral extradition convention with Turkey, taking necessary steps about this kind of request,

e) Placing (M) code for establishing whereabouts of persons or removing it in case of cancellation, informing relevant authorities of the requesting country about the whereabouts of subjects when located,

f) Placing (Y) code for persons to have them, their baggage and vehicles searched while crossing border points, taking necessary steps in case of uncovering any criminal materials and removing the code in case of cancellation.

1.14 According to the Passport Law No: 5682, information on people who are prohibited to enter (Article 8) and exit (Article 22) the country are kept in POLNET computer database. Within this database, in the context of "Restriction Project", data input and registration inquiry is made online in connection with the border gates. In the "Restriction Project", data input and registration inquiry codes of people who are prohibited to enter are different from the ones who are prohibited to exit the country. Necessary transaction is made as per these codes.

1.15 Article 2 of the Passport Law No: 5682 reads, *"Turkish citizens and foreigners should present a proper and valid passport or passport-substitute document to the police authorities, in order to enter or exit Turkey."*

Article 3 of the Passport Law No: 5682 reads, *"Persons who come to the Turkish border gates without passport or document or an improper and invalid passport or passport-substitute document and claim the Turkish citizenship are accepted into the country if they present:*

a) Their Turkish identification cards or identification certificates and if it is approved that the said documents belong to them.

b) Documents or evidences other than identification certificates provided that the police is assured that they are Turkish citizens."

For this reason, entry procedure of persons who arrive for entry into Turkey and present expired Turkish passport, identification card and a birth record document prepared by the Birth Registration Office, is made according to these documents. Foreigners who arrive for entry into Turkey without passport or travel documents are rejected.

1.16 Turkey ratified the 1951 Convention relating to the Status of Refugees (1951 Geneva Convention) with the Law No: 359 on 29 August 1961, at the Turkish National Grand Assembly. In the framework of the Article 42 of the Convention ("At the time of signature, ratification or accession, any State may put reservations to Articles of the Convention other than to Articles 1, 3, 4, 16 (1), 33, 36-46 inclusive."), Turkey used her right of choice foreseen in the Convention to determine refugees (geographical restriction) and declared with Law No: 359 that she only accepts the persons who seek asylum and come from Europe as a refugee.

Turkey kept the geographical restriction clause in the 1967 Protocol relating to the Status of Refugees (1967 Protocol), which entered into force by the Decree of the Council of Ministers on 1 July 1968.

Turkey has provided a legal basis to asylum procedure with the "Regulation to Amend the Regulation on the Procedures and the Principles Related to Population Movements and Aliens Arriving in Turkey either as Individuals or in Groups Wishing to Seek Asylum either from Turkey or Requesting Residence Permission in order to seek Asylum from Another Country" (1994 Asylum Regulation) and the Decree of the Council of Ministers No: 6169, on 30 November 1994.

Turkey informs the UNHCR about the applications of the foreigners from non-European countries and ensures them to be registered and have interview with the UNHCR. Thus, the opinions of the UNHCR are taken into consideration when applications are evaluated. Exchange of information is made between relevant authorities and the UNHCR and situation of refugee is discussed. For this reason, decisions taken by the Ministry of Interior are parallel to the UNHCR's.

Although Turkey implements the geographical limitation clause, as per 1994 Asylum Regulation, she provides temporary protection for the asylum seekers from non-European countries whose situations fall under the framework of 1951 Convention and 1971 Protocol, until they are accepted as a refugee by a third country. Therefore, an asylum seeker may reside temporarily for a reasonable period in Turkey. Those foreigners are relocated in a third country by the UNHCR.

Foreigners who came to Turkey for the purpose of seeking asylum from third countries and entered the country by illegal means are kept at the border provinces. After the positive decision as to their situation they are relocated to the cities of no public order concern, where temporary refugees are controlled easily. They are given the permission to reside in these cities. Those refugees who are evaluated positively are allowed to reside permanently in the cities they choose.

Article 2 of 1951 Geneva Convention reads as *"Every refugee has duties to the country in which he finds himself, which require in particular that he conform to its laws and regulations as well as to measures taken for the maintenance of public order."*

Article 17 of the "Law No: 5683 concerning the Residence and Travel of Foreigners" states that those foreigners who took refuge in Turkey for political reasons can reside only in the cities that the Ministry of Interior Affairs gives permission.

In this vein, Turkey grants residence permit to the foreigners who come from European countries in the cities of their own choice while those foreigners who come from a non-European country are allowed to reside in the cities that the Ministry of Interior Affairs permits them. Temporarily protected refugees and refugee candidates are permitted to reside in non-metropolitan cities where public order and control is easy to achieve.

The supervision of the foreigners is carried out by the Provincial Governorship in accordance with the actual conditions and state of public order of the province. Elderly persons, females and children and those who are in bad health conditions are controlled in the nearest Police Stations and Police Centers, while controls of those who cannot leave for the Police Station are carried out in their residences. The foreigners who apply for the permission to reside in a city where they have relatives and close associates are granted such permission.

Furthermore, foreigners are given permission by the Provincial Governorships to visit up to 15 days their relatives and close associates who reside in a different city. This practice eliminates the bureaucratical barriers and enables the foreigners to move freely in the country under the framework of the above-mentioned conditions.

The situation of those foreigners whose asylum demands are declined is evaluated in line with Law No: 5683. The existence of resident relatives and humanitarian concerns are taken into consideration in that sense.

1.17 Turkish Counter Terrorism Legislation

As a country which has suffered from terrorism, Turkey had put into effect the Law on Fight against Terrorism on 12 April 1991. This Law covers effective provisions for combating terrorism. This Law makes reference to the various provisions of Turkish Criminal Code. Related Articles are as follows:

*"**Law No. 3713 on Fight against Terrorism***

Definition of Terrorism and Organisation:

Article 1 reads, *"Terror; every kind of acts which are perpetrated by any of the methods of extortion, intimidation, discouragement, menace and threat by using force and violence by a person or by persons belonging to an organisation with a view to changing the nature of the Republic as defined in the Constitution and its political, legal, social, secular and economic order, impairing the indispensable integrity of the State with its country and nation, endangering the existence of the Turkish State and Republic, weakening or annihilating or overtaking the State authority, eliminating*

the basic rights and freedoms and damaging the internal and external safety, public order or general well-being of the country.

The organisation referred in the present Law is assumed to have been formed when two or more persons come together for the same purpose.

The term organisation includes also the associations, groups, armed groups, bands and armed bands mentioned in the Turkish Penal Code and in ad hoc laws containing penal provisions."

Terrorist Offenders:

Article 2 reads, *"Persons who take part in organisations formed for perpetrating the offences mentioned in Article 1 are terror offenders if they perpetrate the said offences alone or in association with others for attaining the aforesaid objectives or those who take part in such organisations irrespective of whether or not they perpetrate the said offences.*

Persons who perpetrate the said crimes for and on behalf of the organisation are also considered as terror offenders even if they do not take part therein and are punished as members of organisation."

Terrorist Offences:

Article 3 reads, *"The offences enumerated in the Articles 125, 131, 146, 147, 148, 149, 156, 168, 171 and 172 of Turkish Criminal Code are offences of terror."*

Offences committed for terrorist purposes:

Article 4 reads, **"** *in the implementation of the present law:*

a) The offences indicated in Articles 145, 150, 151, 152, 153, 154, 155, 157 and 169 and in the paragraph 2 of the section 499 of the Turkish Criminal Code, and

b) The offences specified in paragraphs (b), (c) and (e) of Article 9 of the Law No: 2845 on the Establishment and Trial Procedures of State Security Courts are considered as terrorist offences if they are perpetrated with a view to attaining the terror objectives indicated in forgoing Article 1."*

Law No: 3713 on Fight against Terrorism makes reference to following provisions of Turkish Criminal Code No: 5237 which entered into force on 1 June 2005:

Turkish Criminal Code

Establishing organisations for the purpose of committing crimes

Article 220 reads, *"(1) Those who establish or direct organisations for the purpose of committing crimes shall be sentenced to imprisonment of 2 to 6 years if the structure of the organisation, number of members, equipment and supplies are sufficient to commit the crimes aimed. However for the existence of an organisation there must be at least three members.*

(2) Those who become members of the organisations established to commit crimes shall be sentenced to imprisonment of 1 to 3 years.

* Article 3 of Law No: 5190(16/6/2004) abolished Law No: 2845. Accordingly, Provisional Article 5 of 5190 refers to Article 250 of Code on Criminal Procedure (ex Article 394 of the same Code). Article 250 governs that the offences which would be tried under Law No: 2845 by the State Security Courts shall be tried by Felony Courts.

(3) If the organisation is armed the sentenced stated above will be increased from one fourth to a half.

(4) If a crime is committed within the framework of the organisation's activities, these crimes will also be punished.

(5) The heads of the organisations shall also be sentenced as the perpetrators of all crimes committed within the framework of the activities of the organisation.

(6) The person who commits a crime on behalf of the organisation although he is not a member of the organisation shall also be punished for being a member of the organisation.

(7) A person who aids and abets the organisation knowingly and intentionally although he does not belong to the hierarchical structure of the organisation shall be punished as a member of the organisation.

(8) A person who makes propaganda for the organisation or its objectives shall be punished to imprisonment of one to three years. If the said crime is committed through media and press the sentence will be increased by half."

Stealing and confiscation of transportation vehicles

Article 223 reads, *"(1) Any person who illegally prevents movement of a land transportation vehicle by using threat or violence, or stops a vehicle on the way, or takes it from one place to another, is punished with imprisonment from one year to three years.*

(2) In case the subject of offence happens to be a sea or railway carrier, the offender is sentenced to imprisonment from two years to five years.

Any person who illegally prevents movement of an air carrier or takes it from one place to another by using threat and force is punished with imprisonment from five years to ten years.

Additional punishment is imposed if the offences committed result in the restriction of another's freedom.

In the event an aggravated form of felonious injury arises during commission of these offences, the offender is subject to additional provisions relating to offences committed through felonious injury."

Humiliating Signs of Sovereignty of State

Article 300 reads, *"(1) Any person who publicly humiliates Turkish Flag by destroying, burning it, or in any other manner, is punished with imprisonment from one year to three years.*

(2) Any person who publicly humiliates Turkish National Hymn is punished with imprisonment from six months to two years.

(3) In case of commission of an offence in a foreign country by a Turkish citizen through humiliation of Turkish citizenship, punishment to be imposed is increased by one third.

(4) Declaration of opinion with the aim of criticism may not constitute an offence."

FOURTH SECTION

Offences against Security of State

Breach of National Unity and Territorial Integrity

Article 302 reads, *"(1) Any person who commits an act intended to put the entire or a part of the territory of the State under the sovereignty of a foreign State or to diminish the independence or to disrupt the union of the State or to separate a part of its territory from the Administration of the State, is sentenced to life imprisonment.*

(2) While committing this offence, if other offences are committed, punishments are also given for these offences, according to the related provisions.

(3) On account of committing offences defined in this Article, about legal entities, security measures are imposed which are peculiar to them.

Article 307 reads, *"(1) Any person who entirely or partially destroys or renders useless even if temporarily, land, sea and air vehicles, roads, institutions, depots and other military establishments — even if their constructions are not completed, is punished with imprisonment from six years to twelve years.*

(2) If this offence is committed for the benefit of a State engaged in war against Turkey and jeopardizes the war preparations or war power and capabilities or military operations of the State, the offender is punished with life imprisonment.

(3) If the act has occurred or has been facilitated as a result of negligence of the person who had the possession or who was in charge of safe keeping or supervision of the building, establishment or property mentioned in the first sub-paragraph, this person is punished with imprisonment from one year to five years.

(4) Any person who collaborates during war time with a foreigner for the purpose of facilitating military operations of the enemy or harming military operations of Turkey, or even without collaboration but commits the acts with the same result, is punished with imprisonment from ten years to fifteen years.

As a result of the acts mentioned in the fourth sub-paragraph, if the military operations of the enemy have facilitated or the military operations of the State of Turkey have been damaged, the offender is punished with life imprisonment.

The same punishment is imposed on a foreigner who conspires with the person committing the offences mentioned in the fourth and fifth sub-paragraphs.

The provisions of this Article are also applied in case of committing acts in Turkey mentioned in the above sub-paragraphs to the detriment of a State which is in alliance or partnership with the State of Turkey."

FIFTH SECTION

Offences against the Constitutional Order and against the Process of this Order

Article 309 reads, "*(1) Persons who attempt to abolish the Constitutional Order of the Republic of Turkey or try to establish another order instead of this or prevent de facto process of this order are punished with life imprisonment.*

(2) While committing this offence, if other offences are committed, punishments are also given for these offences, according to the related provisions.

(3) On account of committing offences defined in this Article, about legal entities, security measures are imposed which are peculiar to them."

Assassination of or physical attack against the President

Article 310 reads, "*(1) Any person who assassinates the President is punished with life imprisonment. Also in case of attempting this act, the punishment is imposed as if the offence had been completed.*

(2) Regarding a person committing other physical attacks against the President, the punishment of the related offence is applied with an increase to one half. However, the penalty may not be less than five years in such case."

Offence against legislative organ

Article 311 reads, "*(1) Any person who attempts to overthrow The Turkish Grand National Assembly by using force and violence or to hinder The Turkish Grand National Assembly from accomplishing its mission partially or entirely is punished with life imprisonment.*

(2) While committing this offence, if other offences are committed, punishments are also given for these offences, according to the related provisions."

Offence against the Government

Article 312 reads, "*(1) Any person who attempts to overthrow the Government of the Republic of Turkey by using force and violence or to hinder the Government from accomplishing its mission partially or entirely is punished with life imprisonment.*

(2) While committing this offence, if other offences are committed, punishments are also given for these offences, according to the related provisions."

Armed revolt against the Government of the Republic of Turkey

Article 313 reads, "*(1) Any person who provokes people to revolt against the Government of the Republic of Turkey is punished with imprisonment from fifteen years to twenty years. When the revolt breaks out, the provoker is punished with imprisonment from twenty years to twenty-five years.*

(2) Any person who commands an armed revolt against the Government of the Republic of Turkey is punished with imprisonment. Other persons who participate in revolt are sentenced to imprisonment from six years to ten years.

(3) In case of committing the offences defined in the first and second sub-paragraphs by taking advantage of the convenience provided by the war time of the State, the offender is punished with life imprisonment.

(4) While committing the offences defined in the first and second sub-paragraphs, if other offences are committed, punishments are also given for these offences, according to the related provisions."

Armed organisation

Article 314 reads, "*(1) Any person who establishes or commands armed organisation with the purpose of committing the offences mentioned in the Fourth and Fifth Chapters of this Section is punished with imprisonment from ten years to fifteen years.*

(2) Those who are the members of an organisation defined in the first sub-paragraph are sentenced to imprisonment from five years to ten years.

(3) Other provisions related to the offence of establishing of an organisation intending to commit offence are applied exactly in same manner for this offence."

Providing Weapons

Article 315 reads, *"(1) Any person who knowingly supplies, transports or stores arms to these organisations by the way of manufacturing, purchasing or importing to be used in the activities of the organisations defined in the above Article is punished with imprisonment for ten years to fifteen-years."*

Agreement on Offence

Article 316 reads, *"(1) If two or more persons agree on committing the offences which are described in the fourth and fifth sections of this part, by using available instruments, and if this agreement is determined in a concrete way, then the persons shall be sentenced to imprisonment for a term of three to twelve years.*

(2) Those who withdraw from this agreement before commission of the offence or before the prosecution on the agreement shall not be sentenced."

SIXTH CHAPTER

Offences against National Defence

Usurpation of Military Commanderships

Article 317 reads, *"(1) Any person who undertakes the command of a military or naval force or a war vessel or air war fleet or a fort or fortified place or military headquarters or establishment or a harbour or city, without authorized legally or without an official status conferred by the State, is sentenced to life imprisonment.*

(2) The same punishment is imposed on officers assigned to undertake commanding duty by the State, or legally authorized to hold such office, but do not obey the orders given by the authorized to leave the quarter."

Discouraging people from enlisting in armed forces

Article 318 reads, "*(1) Those who try to persuade or instigate people not to enlist in the armed forces or make propaganda with this intention are punished with imprisonment from six months to two years.*

(2) The punishment to be imposed is increased by one half in case of commission of this offence through press and broadcast organs."

Enlistment in a foreign service

Article 320 reads, "*(1) Any person who enlists citizens in the country to serve for a foreigner or foreign State or work on behalf them or arms the citizens without permission of the Government is sentenced to imprisonment from three years to six years.*

In case there are soldiers or persons of the age of military service among those enlisted or armed in this manner, the term of the punishment is increased by one third. Any person who accepts the service mentioned in first subsection is punished with imprisonment from one year to three years."

Disclosure of information related to the security and political benefits of the State

Article 329 reads, "*(1) Any person who discloses any information which must be kept secret for the security or internal or international political benefits of the State is sentenced to imprisonment from five years to ten years.*

(2) If the offence is committed during war time or if it jeopardizes the war preparations or war power or capabilities or military operations of the State, the offender is sentenced to imprisonment from ten years to fifteen years.

(3) If the act occurs through the negligence of the offender under the conditions of sub-paragraph one, the offender is sentenced to imprisonment from six months to two years; if it occurs through the negligence of the offender under the conditions of sub-paragraph two, the offender is sentenced to imprisonment from three years to eight years."

2. Implementation of resolution 1624 (2005)

Paragraph 1

2.1 Current legislation to prohibit incitement to commit a terrorist act is mentioned in paragraph 1.17. Apart from those, the Commission set up within the Ministry of Justice for the purpose of amending Law No: 3713 to Fight against Terrorism has completed its work, and studies on the draft are still being carried out at different levels.

2.2 In accordance with the principles of international judicial cooperation and with the requirements of International Conventions on refugee status, Turkey carefully evaluates the refugee status requests of the persons to be extradited in order to avoid abuse of refugee status.

Article 1, paragraph F of the 1951 Convention relating to the Status of Refugees states that the provisions of the Convention shall not apply to any person with respect to whom there are serious reasons for considering their committing of certain crimes.

In this vein, for "those foreigners who do not merit international protection" (those who committed crimes against humanity and peace as defined in paragraphs a, b and c of the Article 1), the protective provisions of the Convention are not implemented and these foreigners are excluded from refugee status.

Paragraph 2

2.3 Turkey has been carrying out projects to cooperate with its neighbouring and other countries in order to strengthen the security of its international borders with a view to preventing those guilty of incitement to commit a terrorist act from entering the country by combating fraudulent travel documents and enhancing terrorist screening and passenger security procedures.

Upon the notification by both domestic and foreign authorities as to stolen and lost, or counterfeited passports, travel documents and visa tags, in order to prevent the use of them, related data is entered to POLNET computer database, which is accessible online by the border gates. In this way, people who attempt to enter the country using registered documents are detected and legal action is taken against them.

The following projects conducted under the coordination of the Ministry of Interior contribute to bring Turkey's border security to the EU standards.

a) "Integrated Border Management Project" and "Project for Enhancing Training Systems of the Border Security" aiming at transforming the border security and management into an integrated structure,

b) "Migration and Asylum Seeking Project" to provide harmonisation in the fields of migration and asylum

c) Project on Enhancing the Institutional Capacity in Combating Human Trafficking"

Paragraph 3

2.4 The need for a true dialogue among different cultures continues to appear high on the international community's agenda. Troubling events of recent years have made it imperative that we engage in a meaningful and operational dialogue.

In light of this pressing requirement and given its unique position, Turkey, throughout 2005, has continued to provide full support to international efforts aiming at enhancing dialogue among different cultures and religions.

With this attitude in mind, Turkey, in 2005, has taken the lead with Spain in launching a new initiative towards this end which is called the "Alliance of Civilizations". The initiative, which is co-sponsored by Turkey and Spain under the auspices of the UN Secretary General, aims at facilitating harmony and dialogue by emphasizing the common values of different cultures and religions.

It also rejects the identification of terrorism and extremism with any religion or culture. In our thinking, the real fault-line exists not among religions or cultures, but instead between democracy, modernity and reformism on the one side, and totalitarianism, radicalism and lethargy on the other.

Therefore, in essence, the call for an Alliance of Civilizations is an appeal to all those who believe in building rather than destroying, who embrace diversity as a means of progress rather than as a threat, and who believe in the dignity of humankind across religion, ethnicity, race and culture.

In this context, the initiative which has been officially launched by the UN Secretary General on 14 July 2005 would not compete with or duplicate other similar initiatives; but rather it is designed to benefit from them and come up with concrete recommendations through the work of a High Level Group (HLG), composed of eminent personalities representing different cultures and geographies.

The HLG co-chaired by State Minister Prof Mehmet Aydın from Turkey and Mr. Federico Mayor Zaragoza (former Director-General of UNESCO) from Spain, held its first meeting from 26-29 November 2005 in Spain. The meeting has been very useful in discussing what could be done in practical terms to promote and facilitate a sound dialogue, as well as a framework of cooperation among different cultures and religions towards our common objectives.

The HLG is expected to finalize and submit its recommendations to the UN in the form of an action plan by the second half of 2006. The last meeting of the HLG will be held in Turkey. We believe that the work of the HLG, and in particular the Action Plan to be prepared, will provide a significant added value to the ongoing efforts for promoting cooperation and harmony among different cultures.

The Group will certainly benefit from the contributions of like-minded countries and organisations. We have already established a "Group of Friends" in New York, consisting of countries which expressed an intention to support the initiative either intellectually or financially. Furthermore, many international organisations, including the OSCE and NATO have already indicated their willingness to support the initiative.

On the other hand, the UN Secretary General has opened a special bank account for the Alliance of Civilizations and we welcome all member states' financial inputs. Turkey and Spain have already made substantial contributions to this fund.

2.5 While identification of terrorism and extremism with any religion or culture is one tier of Turkey's efforts, the other is dissemination of the true call of Islam with regard to extremism, intolerance and hatred. For this purpose Turkey joins the efforts of the Organisation of Islamic Conference to this end. Also Turkish Religious Authority (Diyanet) provides that this message reaches the masses in Friday sermons in all mosques uniformly. In the sermons, true call of Islam as a religion of peace as well as verses from the Quran which denounce extremism, terror and intolerance are accentuated. Turkish Religious Authority supervises all religious activities to ensure that religion will not be abused for prohibited purposes.

Paragraph 4

2.6 Turkey takes necessary measures to implement paragraphs 1, 2 and 3 of UN Security Council resolution 1624 (2005) to comply with all of its obligations under international law, in particular international human rights law, refugee law and humanitarian law.

Turkey has given full support to international efforts aiming at enhancing dialogue and broadening understanding among civilizations. Contribution to such efforts has been among the priorities of the Turkish foreign policy.

As part of its contribution to international efforts to foster dialogue among civilizations, Turkey has been among the co-sponsors of the UN General Assembly resolution 60/11 of 3 November 2005 titled "Promotion of Religious and Cultural Understanding, Harmony and Cooperation" and the UN Commission on Human Rights resolution 2005/3 of 12 April 2005 titled "Combating Defamation of Religions".

Turkey has been actively involved in the work of the OSCE in the field of promoting tolerance and non-discrimination. As part of this involvement, Turkey has participated in the thematic OSCE conferences on racism, xenophobia, anti-Semitism, discrimination and other forms of intolerance. Most recently, Turkey actively contributed to the drafting and adoption of the OSCE Ministerial Council decision 10/05 of 6 December 2005 titled "Tolerance and Non-Discrimination: Promoting Mutual Respect and Understanding".

Turkey believes that existing international efforts to promote mutual respect and understanding among civilizations should be coordinated through cooperation between international organisations with expertise in this field. Turkey, thus, attaches great importance to the implementation of the Declaration on Cooperation between the Council of Europe and the OSCE appended to the Action Plan adopted at the Third Summit of Heads of State and Government of the Council of Europe held in Warsaw on 16-17 May 2005. Turkey believes that promotion of tolerance and non-discrimination, as an area of common interest between the two organisations, should be given particular emphasis during the implementation of the Declaration.

Turkey is party to the 1951 Convention on the Status of Refugees (Geneva Convention) and its 1967 Additional Protocol, with "geographical limitation". Thus, Turkey applies the provisions of this Convention to those would-be refugees who are the nationals of countries which Turkey deems to be within the "European Zone".

- However, Turkey allows and extends temporary protection to persons from non-European countries who have acquired UNHCR's refugee status to stay in Turkey until they are resettled in a third country. UNHCR, in cooperation with IOM, organizes the resettlement process.

- Article 14 of the Universal Declaration of Human Rights states: "Everyone has the right to seek and enjoy in other countries asylum from persecution". Nevertheless, when serious grounds exist to believe that the person who seeks to be granted asylum has participated in terrorist activities, refugee status is denied to that person. Although States are committed under international law to provide protection by way of asylum to persons who flee persecution on the grounds of political opinion, this protection does not extend to terrorists.

Article 1 (F) (exclusion clause) of the Convention on the Status of Refugees of 28 July 1951 provides:

"The provisions of this Convention shall not apply to any person with respect to whom there are serious reasons for considering that

a) He has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes;

b) He has committed a serious non-political crime outside the country of refuge prior to his admission to that country as a refugee;

c) He has been guilty of acts contrary to the purposes and principles of the United Nations".

This provision mirrors in Article 14 (2) of the Universal Declaration of Human Rights and is intended to ensure that extraditable criminals do not escape prosecution by claiming refugee status.

It is evident that the acts of terror are not in line with the purposes and principles of the United Nations. Therefore, there is no room in the 1951 Geneva Convention to grant refugee status to those who have committed terrorist acts.

Turkey deals with terrorists accordingly. Article 12 of The Asylum Regulation of 1994 (The Regulation on the Procedures and the Principles Related to Population Movements and Aliens Arriving in Turkey either as Individuals or in Groups Wishing to Seek Asylum.either from Turkey or Requesting Residence Permission in Order to Seek Asylum from Another Country), foresees that if there is a mass influx of refugees into Turkey "... utmost care shall be taken to separate terrorists and those destructive to peace and security ..." by the relevant Turkish authorities.

- According to the Article 29 of the Asylum Regulation "A refugee or an asylum-seeker who is residing in Turkey legally can only be deported by the Ministry of Interior under the terms of the 1951 Geneva Convention relating to the Status of Refugees or for reasons of national security and public order."

An appeal against a deportation order may be made to the Ministry of Interior within fifteen days. The appeal shall be reviewed and ruled upon by an official one rank above the officer who previously made the deportation order, and this ruling shall be communicated to the person concerned by the competent Governorate."

An asylum-seeker can also appeal his or her case to administrative courts. Such an appeal has "suspensive effect" and a deportation order is not carried out during adjudication process.

Turkey deals with all requests for asylum on an individual basis. Each administrative decision taken by the relevant authorities is subject to judicial scrutiny. An "effective remedy" exists against the decisions taken throughout the asylum procedure.

- Turkey strictly complies with the "*non-refoulement*" obligation stated in the Geneva Convention. Persons who are assessed to be under risk of persecution in their countries of origin are not deported, even if they are not qualified to be a refugee. The exclusion clauses are restrictively interpreted, individually assessed and resorted to only where there is clear and compelling evidence.

Turkey firmly believes that the challenge for states is to provide safe havens to genuine refugees without allowing their territories to be abused by terrorists to avoid justice. Genuine refugees are themselves the victims of terrorism and persecution, not its perpetrators. Those who claim the right to asylum while having involved in terrorist activities in their respective countries, is in effect abusing the very essence of this right to the detriment of genuine refugees.

The concept of "*non-refoulment*" envisaged by the international refugee law to prevent individuals from being subjected to cruel and unfair treatment must not be interpreted in a fashion enabling terrorists to act with impunity.

This requires effective cooperation on the international level.